

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BILLY TYLER,) 4:12CV3191
)
 Plaintiff,)
)
 v.) **MEMORANDUM
 AND ORDER**
)
 EPA,)
)
 Defendant.)

This matter is before the court on its own motion. On September 18, 2012, the court entered a Memorandum and Order provisionally filing this matter, but requiring Plaintiff to either file a motion for leave to proceed in forma pauperis or pay the \$350.00 filing fee no later than October 18, 2012. (Filing No. [5](#).) The court warned Plaintiff that failure to comply with its Memorandum and Order would result in dismissal of this matter without further notice. (*Id.*) Plaintiff has not paid the \$350.00 filing fee, or submitted a motion for leave to proceed in forma pauperis.

In addition, the court notes that on September 10, 2012, Plaintiff filed an Amended Complaint that contained the following statement, “we pray to proceed informa-pauperis [sic], annexing poverty affidavit.” (Filing No. [4](#).) However, Plaintiff has not submitted a poverty affidavit or any other statement of his assets. Even liberally construed, this statement by Plaintiff in his Amended Complaint is insufficient to demonstrate eligibility to proceed in forma pauperis under [28 U.S.C. § 1915\(a\)](#). See [28 U.S.C. § 1915\(a\)\(1\)](#) (requiring an affidavit that includes a statement of all assets).

IT IS THEREFORE ORDERED that:

1. This matter is dismissed without prejudice for failure to pay the court’s filing fee and for failure to comply with a court order.

2. A separate judgment will be entered in accordance with this Memorandum and Order.

DATED this 25th day of October, 2012.

BY THE COURT:

Richard G. Kopf
Senior United States District Judge

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